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LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

EXAMINER

BEISNER, WILLIAM H

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1744

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/868,561

Applicant(s)

KUBOTA, TOMISADA

Examiner

William H. Beisner

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1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2001 (Pre. Amd.).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-18, 20-24, 26, 28 and 29 is/are allowed.
- 6) ☒ Claim(s) 1, 19, 25 and 27 is/are rejected.
- 7) ☒ Claim(s) 2-6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other:

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DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement filed 19 June 2001 has been considered and made of record.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 19, "the front engagement member of the movable part" lacks antecedent basis. While claim 19, 18 and 13 recite that the immovable part includes a front engagement member, these claims are silent as to the presence of "a front engagement member" on the recited movable part. See claim 13.

Claim Rejections - 35 USC § 102

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 27 is rejected under 35 U.S.C. 102(b) as being anticipated by Awakowicz et al.(US 4,810,066).

The reference of Awakowicz et al. discloses a lid body (1) in the form of a generally flat plate wherein a rear side of the lid includes a rear engagement member (4) and the front side of the lid includes a front engagement member (7). With respect to the claim limitation that at least part of the body is curved, the reference discloses that the lid is curved or bent (i.e. prestressed) (See column 2, lines 45-48).

7. Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Hofmann et al.(US 5,752,615).

The reference of Hofmann et al. discloses a container body (23) that includes a front engagement part (27,43) and a rear engagement part (36). Wherein the front engagement part extends in a lift-and-right direction and is capable of displacement in a front-and-rear direction (See column 4, lines 18-29).

8. Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Wilson (US 3,766,953).

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The reference of Wilson discloses a container body (10) that includes a front engagement part (12,12a) and a rear engagement part (11,11a). Wherein the front engagement part extends in a lift-and-right direction and is capable of displacement in a front-and-rear direction (See column 2, lines 8-37).

9. Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Thomas (US 5,084,251).

The reference of Thomas discloses a container body (14) that includes a front engagement part (80,80a,80b) and a rear engagement part (18). Wherein the front engagement part extends in a lift-and-right direction and is capable of displacement in a front-and-rear direction (See the Figures).

10. Claims 1 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Lindberg et al.(US 5,950,814).

The reference of Lindberg et al. discloses a container body (8) that includes a front engagement part (5) and a rear engagement part (4). The reference also discloses a lid (3) that includes a rear engagement part (4) and a front engagement part (9). The lid is provided in a curved state when disengaged from the front engagement part (5) of the body and conforms to the shape of the body when engaged with front member (5) (See column 4, lines 43-57).

Allowable Subject Matter

11. Claims 7-18, 20-24, 26, 28 and 29 are allowed.

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12. Claims 2-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. Claim 19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

14. The following is a statement of reasons for the indication of allowable subject matter:

Claims 2-6 would be allowable because the prior art of record fails to teach or fairly suggest a container and lid combination wherein a part of the lid is curved and engagement of the lid causes the lid to be deformed into a plane state or reduced curve state and wherein the body of the container includes a gap for cooperating with the front engagement member of the lid wherein a wedge member is depressed into the gap to release the lid from the container.

Claims 7-12 would be allowable because the prior art of record fails to teach or fairly suggest a container and lid combination wherein the lid includes first and second parallel movable parts wherein the first part includes a front engagement member and the second part includes a disengagement member.

Claims 13-24 would be allowable because the prior art of record fails to teach or fairly suggest a container and lid combination wherein the lid includes a first immovable part with a

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front engagement member and a second parallel movable part wherein when the front engagement member engages the container the movable part is elastically deformed.

Claim 26 would be allowable because the prior art of record fails to teach or fairly suggest a lid structure that includes first and second parallel movable parts wherein the first part is curved and includes a front engagement member and the second part is substantially flat and includes a disengagement wedge.


Claims 28 and 29 would be allowable because the prior art of record fails to teach or fairly suggest a lid structure that includes first and second parallel parts wherein the first part is movable, curved and includes a front engagement part and the second part is immovable and not substantially curved.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Beisner whose telephone number is 703-308-4006. The examiner can normally be reached on Tues. to Fri. and alt. Mon. from 6:40am to 4:10pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 703-308-2920. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


William H. Beisner
Primary Examiner
Art Unit 1744

WHB